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Letter dated 15 May 2013 from the Secretary-General addressed to the President of the Security Council

I should like to draw your attention to Security Council resolution 899 (1994) concerning the matter of the Iraqi private citizens and their assets which remained on Kuwaiti territory following the demarcation of the international boundary between Iraq and Kuwait. The Security Council decided therein that the compensation payments to be made pursuant to the arrangements described in the Secretary-General's letter of 22 February 1994 (S/1994/240) may be remitted to the private citizens concerned in Iraq, notwithstanding the provisions of resolution 661 (1990).

The Department of Political Affairs of the United Nations Secretariat has been responsible for dealing with the issue of compensation. In accordance with the course of action outlined in the above-mentioned letter from the Secretary-General, Kuwait contributed to the trust fund created for the purpose of compensation, the Trust Fund for Iraq-Kuwait border issues. A notice to the Iraqi farmers concerned was prepared; a representative of the Department visited the border area between Iraq and Kuwait with a view to informing the Iraqi individuals concerned of the compensation and what needed to be done to claim it. The text of the notice was published in Kuwaiti newspapers. While most of the farmers were personally informed of the compensation amounts, none felt in a position to apply for the compensation at the time.

The Department continued to pursue the matter, but did not receive from the Iraqi authorities at the time the cooperation necessary to effect the payment. A visit to Iraq by a representative of the Department in order to proceed with the handover of compensation payments to the beneficiaries was postponed in early June 1995 at the request of the Government of Iraq, which did not suggest an alternative date. Attempts by the Department to make practical arrangements for disbursement of the compensation were not successful until after the fall of the Government of Saddam Hussein.

On 30 June 2005, the Department informed the Permanent Representative of Iraq to the United Nations that the Organization intended to proceed with the disbursement of compensation. Detailed modalities for the identification of and payment to the individual beneficiaries were forwarded to the Permanent Mission of Iraq. On 2 February 2007, the Government of Iraq was requested to inform the United Nations as to how it intended to proceed with regard to these arrangements.

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On 28 March 2007, the Permanent Mission of Iraq informed the Secretariat that the Council of Ministers of Iraq had decided to establish a team from the relevant ministries, headed by a representative of the Council of Ministers, to distribute the compensation determined by the United Nations Compensation Fund to the Iraqi farmers concerned. In notes verbales dated 4 February and 26 March 2008, the Permanent Mission of Iraq requested, on behalf of the Committee on the distribution of compensation to Iraqi farmers, that the total amount of compensation and the interest should be deposited in the account of the Development Fund for Iraq at the Federal Reserve Bank of New York. There were subsequent exchanges between the Department and the Permanent Mission of Iraq on the modalities of such a transfer.

On 30 April 2008, the Department informed the Government of Kuwait of the Iraqi request outlined above. After an exchange of correspondence with the Department, the Permanent Mission of Kuwait to the United Nations noted, in its letter dated 18 February 2009, that Kuwait had fulfilled all of its commitments relating to the issue of compensation of the Iraqi farmers and that the subject "now remains between the United Nations and Iraq". The letter outlined no conditions or specific demands.

On 29 November 2012, the Permanent Mission of Iraq informed the Department that the Government of Iraq would update the final list of beneficiaries. On 2 May 2013, the Minister for Foreign Affairs of Iraq wrote to me (see annex) to request the transfer of the funds to the Ministry's account number 2 in United States dollars at the Rasheed Bank.

Given the Iraqi requests to transfer funds and the fact that no objections were raised by the State of Kuwait, and taking into account the provisions of paragraph 10 of Security Council resolution 1483 (2003), I intend to conclude an agreement with the Government of Iraq whereby the United Nations will transfer the funds contained in the Trust Fund, less applicable administrative costs, to the Government of Iraq, which will assume full responsibility for identifying the beneficiaries, determining the amount of compensation to be paid to each beneficiary and disbursing the corresponding amounts. The agreement will also provide for the Government of Iraq to inform me on a regular basis of the progress achieved in identifying and making payment to the beneficiaries and on completion of the process.

As at 31 March 2013, the balance of the Trust Fund was $1,438,718. Should the Council agree with the course of action outlined above, my responsibilities under Security Council resolution 899 (1994) will have been discharged upon transfer of the funds to the Government of Iraq. The Governments of Iraq and Kuwait have been consulted on and agree with the course of action outlined above.

I should be grateful if you would bring this letter and its annex to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

Annex

[Original: Arabic]

Allow me to express my appreciation for your efforts to settle the issues pending between the Republic of Iraq and the State of Kuwait. We are now finalizing the lists of Iraqi farmers whose land was affected by the demarcation of the borders between the two countries entitled to compensation. I should therefore be grateful if you could instruct that the amount designated for that purpose should be transferred to the Ministry's account at Rasheed Bank, Ministry of Foreign Affairs Branch, missions account No. 2 (United States dollars).

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Hoshyar **Zebari**
Minister for Foreign Affairs of the Republic of Iraq